

TEXAS ALCOHOLIC BEVERAGE COMMISSION
COMMISSION MEETING
MONDAY, FEBRUARY 26, 2001

The Texas Alcoholic Beverage Commission met on this date in Room 185 at 5806 Mesa Drive, Austin, Travis County, Texas. Members present: Allan Shivers, Jr., Chairman; John T. Steen, Jr., Member and Gail Madden, Member. Staff present: Randy Yarbrough, Assistant Administrator; Lou Bright, General Counsel; Jeannene Fox, Director of License & Compliance; Greg Hamilton, Chief of Enforcement and Denise Hudson, Director of Resource Management. Present to receive certificates of service: Randy Yarbrough, Executive Office; Glenda Baker, Beaumont Enforcement and Tammy Toney, Licensing. Visitors included: Rick Donley, Beer Alliance of Texas; Fred Marosko, Texas Package Stores Association; Robert Sparks, Licensed Beverage Distributors, Inc.; Mike McKinney, Wholesale Beer Distributors of Texas; Charles E. McGrigg, Wine Institute and Jack Martin, TABLS.

The agenda follows:

1:30 p.m. - Call to order.

1. Recognition of agency employees with 20 or more years of service.
2. Approval of minutes of January 29, 2001 meeting; discussion, comment, possible vote.
3. Administrator's report:
 - a. discussion of staff reports;
 - b. recognitions of achievement; and
 - c. discussion of management controls.
4. Consider petition submitted by the City of South Padre Island, under §109.35, Alcoholic Beverage Code, requesting permission to prohibit the possession of open containers and public consumption of alcoholic beverages in the Central Business District as defined by the map attached to the petition; discussion, comment, possible vote.
5. Public comment.

Announcement of executive session:

6. The commission will meet in executive session under the authority of §551.074 of the Government Code to discuss:
 - a. hiring an administrator; and
 - b. appointment of an acting administrator.
7. Take action, including a vote if appropriate, on topics listed for discussion under executive session.
8. Adjourn.

The meeting was called to order at 1:48 p.m. by Chairman Shivers.

MR. SHIVERS: I will call this meeting of the Texas Alcoholic Beverage Commission to order on Monday, February 26, 2001. It is one forty-eight in the afternoon.

Mr. Steen has not yet joined us. He is stuck in traffic on I-35. Last time I checked, he was stuck in a parking lot masquerading as I-35 at New Braunfels. Hopefully, he will get here before much longer.

We will go ahead and dispense with some of our routine business before he gets here.

MS. MADDEN: Okay.

MR. SHIVERS: First, I'd like to recognize employees who have been with the commission for 20 years or more. This first youngster - I can't believe he's been here 25 years - Randy Yarbrough. Time flies.

Randy is a native of Waco and graduated from the University of Texas at Austin with a BBA in management and a minor in economics. He began employment with the agency in February of 1976 in the human resources department. He has served as director of human resources, director of personnel and budget, executive assistant to the administrator and has served since September of 1987 as assistant administrator. He was elected to two terms as secretary-treasurer of the National Conference of State Liquor Administrators and was elected president of the NCSLA in 1998. He has also represented the NCSLA as an appointee to the Joint Committee of the States and serves on the National Conference of State Legislators Wine Task Force, a timely issue in Texas today. Congratulations.

MR. YARBROUGH: Thank you. If I can get Diana to come up?

MR. SHIVERS: Sure. Diana, are you here?

MR. YARBROUGH: She's the better part of this partnership, for sure.

MR. SHIVERS: Next, is Glenda Baker, who began her career with the agency in 1981. During her 20 years of service, Major Baker has held positions in San Antonio, Austin and Houston. Currently, she serves as major over Region 5 and is headquartered in Beaumont. She is past president of the Harris County Area Chiefs of Police Association and is currently a board member of the International Association of Women Police as well as various other police organizations. Congratulations.

MS. BAKER: Thank you. Mr. Shivers and Ms. Madden, I have my mother and stepfather with me.

MR. SHIVERS: Wonderful.

MS. MADDEN: It's an honor to have them here.

MR. SHIVERS: Jose Pena, a compliance officer in our McAllen office, joined the commission as an auditor on January 20, 1981. In August of 1995, Mr. Pena was recommended for and received an achievement bonus award, and was promoted to Compliance Officer III in March 1998. Mr. Pena is a valued employee whose supervisors continuously commend him for his consistent and professional work ethic. Mr. Pena was not able to be with us today, and his certificate has been forwarded to him.

Tammy Toney joined the commission in 1981 as an employee in our Austin Enforcement Office. In 1983, Ms. Toney transferred to the correspondence section of the licensing department. Ms. Toney is known for her extensive knowledge in the application process and corresponds regularly with applicants regarding pending applications. Congratulations.

MS. TONEY: Thank you.

MR. SHIVERS: We congratulate all of these people on their long service to the state.

Approval of the minutes of the January 29, 2001 meeting. The minutes have been mailed to the commissioners. Any comments? Do we have a motion for approval?

MS. MADDEN: I so move.

MR. SHIVERS: Second. Any comments or changes? All in favor, say aye.

MS. MADDEN: Aye.

MR. SHIVERS: Aye. Opposed?

Number three - the administrator's report? I will call on the assistant administrator, Mr. Yarbrough.

MR. YARBROUGH: Mr. Chairman, we have been preoccupied, primarily, with the legislature, but there are a couple of things I'd like to bring to your attention from this past month in our administrator's report.

Our licensing renewals, which has been the source of a lot of discussion we've had with the legislature, we have been able to maintain 98.8 percent

of all of our original licenses within our 14-day guidelines of our performance measures, but we continue to still be slipping somewhat on our renewals, as we have tried to convey that information to the legislature. The good news is, as Mr. Shivers testified this morning at the appropriation markup, it looks we may be getting some relief from the legislature for some additional people to help with that.

Secondly, in our information resources department, Jay and his people have been working closely with the Northrup Grumman people on negotiating the contract to move our mainframe computer to the West Texas site. We are about finished with that. We are trying in the next week to 10 days to finalize that and enter into a signed agreement to accomplish that.

In terms of our overall revenue, even though we don't count all of those in terms of the renewal licenses until we actually get those processed, we are still ahead of where we were last year, and we feel like we are in good shape on our revenue stream for this year.

That's all that I have unless there are any other staff reports or questions you may have.

MR. SHIVERS: Questions?

MS. MADDEN: No.

MR. SHIVERS: Thank you, Randy. Any public comment today?

I am going to briefly adjourn the commission meeting..

MR. BRIGHT: May I make a suggestion that we speak for a moment about the City of South Padre Island?

MR. SHIVERS: Sorry. It wasn't on my agenda.

MR. BRIGHT: I beg your pardon.

MR. SHIVERS: I missed it. There it is. Thank you, Mr. Bright.

Consider petition submitted by the City of South Padre Island, under §109.35, Alcoholic Beverage Code, requesting permission to prohibit the possession of open containers and public consumption of alcoholic beverages in the central business district as defined by the map attached to

the petition.

Mr. Bright, will you brief us on this, please?

MR. BRIGHT: I will. It is exactly what you have said it is. I have reviewed it carefully with a microscope and, unlike other petitions that you have received of recent date, this one complies with the law. The City of South Padre Island's representative, Paul Cunningham, asked your indulgence for his failure to appear today. He said, "Unless there's going to be yelling and hollering and discussion about it, I will save the City of South Padre Island a plane ticket." We have received no comment about this. I recommend that you approve this petition.

MR. SHIVERS: The petition is in order?

MR. BRIGHT: It is. It meets all the requirements of the law, sir.

MS. MADDEN: I move that we accept it.

MR. SHIVERS: I have a motion. Second. Any further discussion? The City of South Padre Island's petition has been approved.

Public comment?

I am going to recess the commission meeting pending Mr. Steen's arrival at which point we will go into executive session.

The commission recessed at 2:00 p.m. and reconvened in open meeting at 2:02 p.m. at which time Mr. Shivers announced that the commission would meet in executive session under the authority of §551.074 of the Government Code to discuss hiring an administrator. The commission reconvened in open meeting at 3:05 p.m.

MR. SHIVERS: The commission meeting of February 26, 2001 is now back in open session. During executive session no votes were taken, no final decisions were made. We will now take up those matters deliberated for final consideration.

The commission will not appoint an acting administrator being cognizant of Section 5.13 of the Alcoholic Beverage Code which contains, among other things, the following language. "If there is a vacancy in the office of administrator, the assistant administrator shall perform the duties of the administrator until an administrator has been appointed by the commission."

Since the commission intends to fill the post of administrator on a relatively short time frame, we see no need at this point to appoint an acting administrator. The assistant administrator will continue to carry out the duties of administrator until such time as the commission has appointed an administrator.

The chair will entertain a motion to invite bids from three executive search firms to assist the commission in its search for an administrator. We also will post on the state...what is it?

MS. HUDSON: The Governor's Job Bank.

MR. SHIVERS: Yes. Post on the Governor's Job Bank, and we would also like to post it with the NCSLA. Do they have a posting board, Randy?

MR. YARBROUGH: They have a web site.

MR. SHIVERS: Do I have a motion?

MS. MADDEN: I so move.

MR. STEEN: Second.

MR. SHIVERS: Any further discussion? All in favor, say aye?

MS. MADDEN: Aye.

MR. STEEN: Aye.

MR. SHIVERS: Aye. Opposed?

The commission may meet in a special session before our next regularly scheduled meeting to select a search firm, but that will depend on responses we receive. You will have at least 10 days notice.

On a personal note, as you might imagine, the commission has had a number of calls expressing an interest in the commission selecting one or another candidate for administrator. We are aware of the intense level of interest on this matter. You don't particularly advance the cause of your particular candidate by lobbying us. In a matter of fact, you may do them harm. While we appreciate your interest, please give us the time and the space to deliberate on our own on this. We will do this as quickly as possible. I anticipate we will have it done within 60 to 90 days, probably

the shorter end of that.

Anything else to come before us?

MR. STEEN: No, I think you covered it.

MR. SHIVERS: Motion to adjourn?

MR. STEEN: So moved.

MR. SHIVERS: We are adjourned. Thank you very much.

The meeting adjourned at 3:12 p.m.